



**HOUSING AUTHORITY
of the County of Los Angeles**

Administrative Office

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Gloria Molina
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Michael D. Antonovich
Commissioners

Sean Rogan
Executive Director

June 9, 2009

Honorable Board of Commissioners
Housing Authority of the
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

ADOPTED

BOARD OF COMMISSIONERS
HOUSING AUTHORITY

2-H

JUNE 9, 2009

SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Commissioners:

**AWARD CONTRACT TO PROVIDE LANDSCAPE MAINTENANCE SERVICES AT
HOUSING DEVELOPMENTS COUNTYWIDE
(ALL DISTRICTS) (3 VOTE)**

SUBJECT

This letter requests approval of a contract with Parkwood Landscape Maintenance, Inc. to provide necessary landscape maintenance services at 62 housing sites located throughout the County.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the approval of a contract for necessary landscape maintenance services is exempt from the provisions of the California Environmental Quality Act because the activities will not have the potential for causing a significant effect on the environment.
2. Approve and authorize the Executive Director to execute, administer, implement and if necessary terminate a one-year Landscape Maintenance Service contract (Contract) with Parkwood Landscape Maintenance, Inc., in an amount not to exceed \$1,253,053, to provide necessary landscape maintenance services at 62 housing sites, to be effective following approval as to form by County Counsel and execution by all parties.
3. Authorize the Executive Director to execute amendments to the Contract, following approval as to form by County Counsel, to increase the total amount of compensation by up to ten percent to cover unforeseen costs, modify the scope of work to address unforeseen issues, or make other non-monetary changes necessary for the administration and implementation of the Contract.

4. Authorize the Executive Director to extend the time of performance for up to four years, in one-year increments, at the same annual cost, using funds to be approved through the annual budget process.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of this recommended action is to enter into a Contract with Parkwood Landscape Maintenance, Inc. to provide necessary landscape maintenance services for the Housing Authority.

FISCAL IMPACT/FINANCING

There is no impact on the County general fund.

The Contract will be funded with \$1,253,053 from the following funding sources: Conventional Public Housing Operating funds allocated by the U.S. Department of Housing and Urban Development (HUD), Section 8 Project Based funds, and State Annuity funds through the Rental Housing Construction Program. All funds are included in the Housing Authority's Fiscal Year 2009-2010 budget.

A ten percent contingency, in the amount of \$125,305.30, is being set aside for unforeseen costs, using the same source of funds. The Contract may be extended for up to four additional years, in one-year increments, at the same annual cost. Funds for future years will be requested through the annual budget approval process.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Contract will provide for necessary landscape maintenance services at 62 housing sites located throughout the County. Under the proposed Contract, Parkwood Landscape Maintenance, Inc. will perform an estimated 3,704 hours of landscape maintenance services each month, depending on specific work needs approved by the Housing Authority. Regular services include trash pick-up, mowing, weeding, and bush and tree trimming. In addition, Parkwood Landscape Maintenance, Inc. will routinely maintain and repair the irrigation/sprinkler systems and power-wash the parking lots twice each year. Parkwood Landscape Maintenance, Inc. will also perform other services as needed at the direction of the Housing Authority.

The proposed services are being primarily federally funded, and are not subject to the requirements of the Greater Avenues for Independence (GAIN) Program or the Greater Relief Opportunity for Work (GROW) Program implemented by the County of Los Angeles. Instead, Parkwood Landscape Maintenance, Inc. must comply with Section 3 of the Housing and Community Development Act of 1968, as amended, which requires that employment and other economic opportunities generated by certain U.S. Department of Housing and Urban Development (HUD) assistance be directed to low and very low-income persons, particularly to persons who are recipients of HUD housing assistance.

The Housing Commission recommended approval of the Contract at their meeting of May 27, 2009.

CONTRACTING PROCESS

On March 25, 2009, a Request for Proposal (RFP) process was initiated to identify a qualified contractor to provide landscape maintenance services for both the Community Development Commission and Housing Authority. Notices were mailed to 268 contractors identified from the Commission's vendor list. A copy of the RFP was posted on the Commission and Housing Authority's website.

Four proposals were received by the submission deadline of April 14, 2009. The proposals were evaluated by three representatives from the Commission and two representatives from the Housing Authority. Each proposer provided a Business Proposal and a Cost Proposal. After evaluating all proposals, the representatives recommended Parkwood Landscape Maintenance, Inc. for the Contract award.

The Summary of Outreach Activities is provided as Attachment A.

ENVIRONMENTAL DOCUMENTATION

Pursuant to Title 24 of the Code of Federal Regulations, Section 58.35 (b)(3) this action is excluded from the National Environmental Policy Act because it involves activities that will not alter existing environmental conditions. The action is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 because it does not have the potential for causing a significant effect on the environment.

IMPACT ON CURRENT PROJECT

The proposed Contract will provide necessary landscape maintenance services for the Housing Authority.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sean Rogan", followed by a horizontal line.

SEAN ROGAN
Executive Director

cc: Chief Executive Officer
Acting County Counsel
Executive Officer, Board of Supervisors

Attachments: 2

ATTACHMENT A

Summary of Outreach Activities

Landscape Maintenance Services

Beginning on March 25, 2009, the following outreach was initiated to identify landscape contractors who are able to provide necessary landscape maintenance services for the Community Development Commission and the Housing Authority

A. Announcement

An announcement was posted on the County's WebVen website and on the Commission Web Site.

B. Distribution of Notices

The Commission's vendor list was used to mail out the Request for Proposals (RFP) to 268 landscape contractors, of which 162 identified themselves as firms owned by minorities or women (private firms that are 51 percent owned by minorities or women, or publicly owned businesses, in which 51 percent of the stock is held by minorities or women). As a result of the outreach, four proposals were received.

C. Proposal Results

On April 14, 2009, four proposals were received. All four proposals met the minimum requirements and were forward to the five-member evaluation panel for further review. The evaluation committee used the "informed averaged" scoring methodology using a 1,000 points system as established in the solicitation package. The evaluation criteria consisted of qualifications (experience, background, references, etc.) approach to providing the services, quality control, Section 3, Living Wage Program and costs. The final evaluation results are as follows:

Rankings	Evaluation Score	Labor Vol. Deductions	Final Score
• Parkwood Landscape Maintenance, Inc.	922	0	922
• TruGreen Landcare	962	48	914
• Far East Landscape and Maintenance	884	0	884
• Wurzel Landscape	840	0	840

A request for information letter regarding labor violations was sent to the Labor Commission of the California Department of Industrial Relations for all four proposers. The response from the Labor Commission revealed labor violations for Parkwood Landscape Maintenance, Inc. and TruGreen Landcare. Staff's review of the documentation determined that the violations for Parkwood Landscape Maintenance, Inc. were inconclusive. Therefore, no points were deducted. However, staff's review of TruGreen Landcare violations revealed undisclosed minor labor violations. As a result, five percent (48 points) was deducted from the

evaluation score in accordance with the Commission's Living Wage Program policy.

Parkwood Landscape Maintenance, Inc. is being recommended for Contract award based on the evaluation criteria set forth in the RFP.

D. Minority/Women Participation – Selected Agency

<u>Name</u>	<u>Ownership</u>	<u>Employees</u>
Parkwood Landscape Maintenance, Inc.	Minority	Total: 80 78 (98%) Minorities 3 (4%) Women

E. Minority/Women Participation – Firms Not Selected

<u>Name</u>	<u>Ownership</u>	<u>Employees</u>
Far East Landscape & Maintenance, Inc.	Minority	Total: 18 17 (94%) Minorities 1 (6%) Women
Wurzel	Non-Minority	Total: 56 55 (98%) Minorities 1 (2%) Women
TruGreen Landcare	Non-Minority	Total: 102 97 (95%) Minorities 9 (9%) Women

The Community Development Commission and Housing Authority conducts ongoing outreach to encourage participation by minorities and women in the contract award process, including: providing information at local and national conferences; expos and vendor fairs, and mailing information to associations representing minorities and women. The above information has been voluntarily provided to the Community Development Commission and Housing Authority.

The recommended award of Contract is being made in accordance with the Community Development Commission and Housing Authority's policies and federal regulations, and without regard to race, creed, color, or gender.

ATTACHMENT B

Contract Summary

Project Name: LANDSCAPE MAINTENANCE SERVICES
Location: 62 housing sites located throughout the Los Angeles County
Number: CDC09-064
Contract Start Date: July 1, 2009
Contractor: Parkwood Landscape Maintenance, Inc.
Purpose: The purpose of this contract is to provide necessary landscape maintenance services to 62 housing sites operated or managed by the Housing Authority within the County of Los Angeles.

Scope of Work: See Attached Scope of Work

Term: Upon execution, the contract shall remain in full force until June 30, 2010 unless sooner terminated or extended in writing.

Option to Renew: The Housing Authority has the option to renew the contract for four additional one-year terms, unless sooner terminated or extended in writing.

Performance Review: A performance review shall be conducted no later than 90 days prior to the end of each contract year. Based on the assessment of the performance review, written notification will be given to the contractor whether the agreement will be terminated at the end of the current year or will be continued into the next contract year.

Compensation: The contractors shall be paid full compensation for the work required, performed, and accepted, at an annual amount not to exceed \$1,253,053, which is exclusive of all costs and expenses which will be deducted from the 10% annual contingency amount.

SAMPLE STANDARD CONTRACT/CONTRACT REQUIRED CLAUSES

This Contract is made and entered into this _____ day of _____, _____, by and between the Community Development Commission of the County of Los Angeles, hereinafter referred to as "Commission", and _____, hereinafter referred to as "Contractor."

RECITAL

1. PURPOSE

The Contractor is in the business of providing needed _____ services. On _____, _____, in response to the Commission's Invitation for Bids Contractor submitted a bid to furnish the hereinafter-described _____ services to the Commission.

2. DEFINITIONS

Wherever in the Contract, specifications, terms, requirements, and conditions the following terms are used, the intent and meaning shall be interpreted as follows:

Board shall mean the Board of Commissioner's of the County of Los Angeles.

Contract shall mean the written agreement covering the performance of the service and the furnishing of labor, materials, supervision, and equipment in the performance of the service. The contract shall include the statement of work and specifications, together with any special provisions thereof. Included are all-supplemental agreements amending or extending the services to be performed that may be required to supply acceptable services specified herein.

Contractor shall mean the person or persons, partnership, joint venture, corporation or other entity that has entered into an agreement with the Housing Authority to perform or execute the work covered by these specifications.

Contract Work shall mean the entire contemplated work and services rendered as prescribed in the statement of work and price list covered by this contract.

County shall mean County of Los Angeles of the state of California.

Executive Director shall mean the Executive Director of the Community Development Housing Authority of the County of Los Angeles or designee; as used herein, includes the director of each division and/or their authorized representative(s).

Statement of Work (SOW) shall mean the directions, provisions, and requirements contained herein, as supplemented by such special provisions as may be necessary pertaining to method, manner, and place of performing the work under this contract.

C-27 License shall mean the California Landscape Contractor License.

TERMS AND CONDITIONS

3. TERM

This Contract shall commence on _____, _____ and shall remain in full force and effect for _____ months until _____, _____ unless sooner terminated as provided herein. This Contract may be extended in one-year increments, for a total of four (4) additional years at the sole discretion of the Commission.

4. CONTRACTOR'S RESPONSIBILITIES

The Contractor agrees to perform in a good workmanlike manner, to the satisfaction of the Commission's Executive Director, all the work described in the attached Statement of Work, Attachment A.

5. COMPENSATION

The Contractor shall submit to the Commission on the ____ day of each month an invoice on a form approved by the Commission for services rendered, as described in Attachment A, Statement of Work. Upon receipt and approval, the Commission will pay the Contractor within thirty (30) days of receipt and approval of the invoice in accordance with Attachment B, Fee Schedule. The yearly amount of compensation under this Contract shall not exceed _____ Dollars (\$_____), and the total amount of compensation under this Contract will not exceed _____ Dollars (\$_____), which shall include all related expenses.

The Contractor shall be paid in accordance with the Commission's standard accounts payable system.

The Contractor shall have no claim against the Commission for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Contractor after the expiration or other termination of this Contract. Should the Contractor receive any such payment, it shall immediately notify the Commission and shall immediately repay all such funds to the Commission. Payment by the Commission for services rendered after expiration or termination of this Contract shall not constitute a waiver of the Commission's right to recover

such payment from Contractor. This provision shall survive the expiration or other termination of this Contract.

6. SOURCE AND APPROPRIATION OF FUNDS

The Commission's obligation is payable only and solely from funds appropriated through the U.S. Department of Housing and Urban Development (HUD) and, for the purpose of this Contract. All funds are appropriated every fiscal year beginning July 1.

In the event this Contract extends into succeeding fiscal years and funds have not been appropriated, this Contract will automatically terminate as of June 30 of the current fiscal year. The Commission will endeavor to notify the Contractor in writing within ten (10) days of receipt of non-appropriation notice.

7. TERMINATION FOR IMPROPER CONSIDERATION

The Commission may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract, if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County office, employee or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment or extension of this Contract or the making of any determinations with respect to the Contractor's performance pursuant to this Contract. In the event of such termination, the Commission shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

The Contractor shall immediately report any attempt by a Commission officer or employee to solicit such improper consideration. The report shall be made either to the Commission's Executive Director or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

8. ASSIGNMENT BY CONTRACTOR

The Contractor shall not assign its rights or delegate its duties under the Contract, or both, whether in whole or in part, without the prior written consent of the Commission, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, Commission consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. Any payments by the Commission to any approved delegate or assignee on any claim under the Contract shall be deductible, at the Commission's sole discretion, against the claims, which the Contractor may have against the Commission. However, the

Commission reserves the right to assign this Contract to another public agency without the consent of the Contractor.

Shareholders, partners, members, or other equity holders of the Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is affected in such a way as to give majority control of the Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of the Commission in accordance with applicable provisions of this Contract.

Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without the Commission's express prior written approval, shall be a material breach of the Contract which may result in the termination of the Contract. In the event of such termination, the Commission shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

9. CONFIDENTIALITY OF REPORTS

The Contractor shall keep confidential all reports, information and data received, prepared or assembled pursuant to performance hereunder. Such information shall not be made available to any person, firm, corporation or entity without the prior written consent of the Commission.

10. SUBCONTRACTING

The Contractor may subcontract only those specific portions of work allowed in the original specifications covered by this Contract with prior written approval by the Commission.

The Contractor shall not subcontract any part of the work covered by this Contract or permit subcontracted work to be further subcontracted without prior written approval by the Commission.

11. INSURANCE

Without limiting Contractor's indemnifications provided in this Contract, Contractor shall procure and maintain, at Contractor's sole expense for the duration of this Contract, the insurance policies described herein. Such insurance shall be secured from carriers admitted in California, or authorized to

do business in California. Such carriers shall be in good standing with the California Secretary of State's Office and the California Department of Insurance. Such carriers must be approved by the California Department of Insurance and must be included on the California Department of Insurance List of Eligible Surplus Line Insurers (hereinafter "LESLI"). Such carriers must have a minimum rating of or equivalent to A:VIII in Best's Insurance Guide. Contractor shall, concurrent with the execution of this Contract, deliver to the Commission certificates of insurance with original endorsements evidencing the insurance coverage required by this Contract. If original endorsements are not immediately available, such endorsements may be delivered subsequent to the execution of this Contract, but no later than thirty (30) days following execution of this Contract. The certificates and endorsements shall be signed by a person authorized by the insurers to bind coverage on its behalf. The Commission reserves the right to require complete certified copies of all policies at any time. Said insurance shall be in a form acceptable to the Commission and may provide for such deductibles as may be acceptable to the Commission. Any self-insurance program and self-insured retention must be separately approved by the Commission. In the event such insurance does provide for deductibles or self-insurance, Contractor agrees that it will defend, indemnify and hold harmless the Commission, its elected and appointed officers, officials, representatives, employees, and agents in the same manner as they would have been defended, indemnified and held harmless if full coverage under any applicable policy had been in effect. Each such certificate shall stipulate that the Commission be given at least thirty (30) days' written notice in advance of any cancellation or any reduction in limit(s) for any policy of insurance required herein. Contractor shall give the Commission immediate notice of any insurance claim or loss which may be covered by insurance. Contractor represents and warrants that the insurance coverage required herein will also be provided by any entities with which Contractor contracts, as detailed below. All certificates of insurance and additional insured endorsements shall carry the following identifier:

(Name of Contractor)

The insurance policies set forth herein shall be primary insurance with respect to the Commission. The insurance policies shall contain a waiver of subrogation for the benefit of the Commission. Failure on the part of Contractor, and/or any entities with which Contractor contracts, to procure or maintain the insurance coverage required herein may, upon the Commission's sole discretion, constitute a material breach of this Contract pursuant to which the Commission may immediately terminate this Contract and exercise all other rights and remedies set forth herein, at its sole and absolute discretion, and without waiving such default or limiting the rights or remedies of the Commission, procure or renew such insurance and pay any and all premiums in connection therewith and all monies so paid by the Commission shall be immediately repaid by the Contractor

to the Commission upon demand including interest thereon at the default rate. In the event of such a breach, the Commission shall have the right, at its sole election, to participate in and control any insurance claim, adjustment, or dispute with the insurance carrier. Contractor's failure to assert or delay in asserting any claim shall not diminish or impair the Commission's rights against the Contractor or the insurance carrier.

When Contractor is naming the Commission as an additional insured on any of the insurance policies set forth herein, then the additional insured endorsement shall contain language similar to the language contained in ISO form CG 20 10 10 01. When any entity with which Contractor is contracting, is naming the Commission as an additional insured on any of the insurance policies set forth herein, then the additional insured endorsement shall contain language similar to the language contained in ISO form CG 20 10 11 85.

The following insurance policies shall be maintained by Contractor and any entity with which Contractor contracts for the duration of this Contract, unless otherwise set forth herein:

- A. GENERAL LIABILITY INSURANCE (written on ISO policy form CG 20 10 85 or it's equivalent) including coverage for personal injury, death, property damage and contractual liability with limits of not less than the following:

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

The Commission, the Housing Authority of the County of Los Angeles ("Housing Authority"), the County of Los Angeles ("County") (collectively referred to as "Public Agencies"), and each of their elected and appointed officers, officials, representatives, employees, and agents (collectively referred to as "Agents") shall be covered as additional insureds on such policy.

- B. AUTOMOBILE LIABILITY INSURANCE (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each incident. Such insurance shall include coverage of all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto". The Public Agencies and their Agents shall be covered as additional insureds on such policy.

- C. WORKERS' COMPENSATION and EMPLOYER'S LIABILITY insurance providing worker's compensation benefits, as required by the Labor Code of the State of California.

In all cases, the above insurance also shall include Employer's Liability coverage with limits of not less than the following:

Each Accident	\$1,000,000
Disease-policy limit	\$1,000,000
Disease-each employee	\$1,000,000

- D. PROFESSIONAL LIABILITY INSURANCE, including coverage for personal injury, death, property damage, and contractual liability in an amount not less than One Million Dollars (\$1,000,000) for each occurrence (Two Million Dollars (\$2,000,000) general aggregate). Said insurance shall be maintained for the statutory period during which the professional maybe exposed to liability. If Contractor is not providing professional services, then it is the responsibility of Contractor to obtain separate written approval from Commission to eliminate this professional liability insurance requirement. Contractor shall require that the aforementioned professional liability insurance coverage language be incorporated into its contract with any other entity with which it contracts for professional services.

Contractor agrees that it will require all of the above mentioned insurance requirements be incorporated in its contract with any entity with which it contracts in relation to this Contract or in relation to the property or project that is the subject of this Contract.

12. INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless the Public Agencies and each of their Agents from and against any and all liability, demands, damages, claims, causes of action, expenses, and fees (including reasonable attorney's fees and costs and expert witness' fees), including, but not limited to, claims for bodily injury, property damage, and death (hereinafter collectively referred to as "Liabilities"), that arise out of, pertain to, or relate to Contractor's acts, errors, or omissions arising from, pertaining to, or relating to this Contract. Contractor shall not be required to indemnify Public Agencies and their Agents from any Liabilities caused by the sole negligence or willful misconduct of Public Agencies and their Agents. Such indemnification language, or language substantially similar thereto, shall also be incorporated in Contractor's contracts with any entities with which it contracts in relation to this Contract or the services to be provided hereunder, in favor of the Public Agencies. This indemnification provision shall remain in full force and effect and survive the termination and/or expiration of this Contract. Contractor agrees to require any and all entities with which it contracts to agree to and abide by the above mentioned indemnification requirements in favor of the Public Agencies and their Agents, as applicable to each of them.

13. COMMISSION'S QUALITY ASSURANCE PLAN

The Commission will evaluate Contractor's performance under this Contract on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all contract terms and performance standards. Contractor deficiencies, which Commission determines are severe or continuing and that may place performance of the Contract in jeopardy, if not corrected, will be reported to the Board of Commissioners. The report will include improvement/corrective action measures taken by the Commission and Contractor. If improvement does not occur consistent with the corrective measure, the Commission may terminate this Contract, pursuant to Paragraph 13 or 14, or impose other remedies as specified in this Contract.

A performance review will be conducted no later than ninety (90) days prior to the end of the first and second years of this Contract to evaluate the performance of the Contractor. Based on the assessment of the performance review, as determined by the Commission in its sole discretion, written notification will be given to the Contractor whether this Contract will be terminated at the end of the current year or will be continued into the next contract year.

14. TERMINATION FOR CONVENIENCE

The Commission reserves the right to cancel this Contract for any reason at all upon thirty (30) days prior written notice to Contractor. In the event of such termination, Contractor shall be entitled to a prorated portion paid for all satisfactory work unless such termination is made for cause, in which event, compensation if any, shall be adjusted in such termination.

15. TERMINATION FOR CAUSE

This Contract may be terminated by the Commission upon written notice to the Contractor for just cause (failure to perform satisfactorily) with no penalties incurred by the Commission upon termination or upon the occurrence of any of the following events in A, B, C or D:

- A. Should the Contractor fail to perform all or any portion of the work required to be performed hereunder in a timely and good workmanlike manner or properly carry out the provisions of this Contract in their true intent and meaning, then in such case, notice thereof in writing will be served upon the Contractor, and should the Contractor neglect or refuse to provide a means for satisfactory compliance with this Contract and with the direction of the Commission within the time specified in such notice, the Commission shall have the power to suspend or terminate the operations of the Contractor in whole or in part.
- B. Should the Contractor fail within five (5) days to perform in a satisfactory manner, in accordance with the provisions of this Contract, or if the work to be done under this Contract is abandoned for more than three days by the Contractor, then notice of deficiency thereof in writing will be served upon

Contractor by the Commission. Should the Contractor fail to comply with the terms of this Contract within five (5) days, upon receipt of said written notice of deficiency, the Executive Director of Commission shall have the power to suspend or terminate the operations of the Contractor in whole or in part.

- C. In the event that a petition of bankruptcy shall be filed by or against the Contractor.
- D. If, through any cause, the Contractor shall fail to fulfill, in a timely and proper manner, the obligations under this Contract, or if the Contractor shall violate any of the covenants, Contracts, or stipulations of this Contract, the Commission shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor under this Contract shall, at the option of the Commission become its property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed.

15. CONTRACTOR'S WARRANTY OF ADHERENCE TO COMMISSION'S CHILD SUPPORT COMPLIANCE PROGRAM

The Contractor acknowledges that the Commission has established a goal of ensuring that all individuals who benefit financially from the Commission through a contract, are in compliance with their court-ordered child, family, and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the taxpayers of the County of Los Angeles.

As required by Commission Child Support Compliance Program and without limiting Contractor's duty under this Contract to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall, during the term of this Contract, maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or CSSD Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

16. TERMINATION FOR BREACH OF WARRANTY TO COMPLY WITH COMMISSION'S CHILD SUPPORT COMPLIANCE PROGRAM

Failure of the Contractor to maintain compliance with the requirements set forth in Paragraph 16, "*CONTRACTOR'S WARRANTY OF ADHERENCE TO Commission's CHILD SUPPORT COMPLIANCE PROGRAM*" shall constitute

default under this contract. Without limiting the rights and remedies available to Commission under any other provision of this contract, failure of Contractor to cure such default within 90 calendar days of written notice shall be grounds upon which Commission may terminate this contract pursuant to Paragraph 15 - "TERMINATION FOR CAUSE" and pursue debarment of Contractor, pursuant to Commission Policy.

17. POST MOST WANTED DELINQUENT PARENTS LIST

The Contractor acknowledges that the County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. The Contractor understands that it is County's and Commission's policy to strongly encourage all Contractors to voluntarily post an entitled "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at Contractor's place of business. The Child Support Services Department (CSSD) will supply Contractor with the poster to be used.

18. INDEPENDENT CONTRACTOR

This Contract does not, is not intended to, nor shall it be construed to create the relationship of agent, employee or joint venture between the Commission and the Contractor.

19. EMPLOYEES OF CONTRACTOR

Workers' Compensation: The Contractor understands and agrees that all persons furnishing services to the Commission pursuant to this Contract are, for the purposes of Workers' Compensation liability, employees solely of the Contractor. Contractor shall bear sole responsibility and liability for providing Workers' Compensation benefits to any person for injuries arising from an accident connected with services provided to the Commission under this Contract.

Professional Conduct: The Commission does not and will not condone any acts, gestures, comments or conduct from the Contractor's employees, agents or subcontractors which may be construed as sexual harassment or any other type of activities or behavior that might be construed as harassment. The Commission will properly investigate all charges of harassment by residents, employees or agents of the Commission against any and all Contractor's employees, agents or subcontractors providing services for the Commission. The Contractor assumes all liability for the actions of the Contractor's employees, agents or subcontractors and is responsible for taking appropriate action after reports of harassment are received by the Contractor.

20. DRUG-FREE WORKPLACE ACT OF THE STATE OF CALIFORNIA

The Contractor certifies under penalty of perjury under the laws of the State of

California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990.

21. SAFETY STANDARDS AND ACCIDENT PREVENTION

The Contractor shall comply with all applicable federal, state and local laws governing safety, health and sanitation. The Contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions, as its own responsibility, reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of this Contract.

22. COMPLIANCE WITH LAWS

The Contractor agrees to be bound by all applicable federal, state and local laws, regulations, and directives as they pertain to the performance of this Contract, including but not limited to, the Housing and Community Development Act of 1974, as amended by the Cranston-Gonzalez National Affordable Housing Act, 1990, and the 24 CFR Part 85, and the Americans with Disabilities Act of 1990. If the compensation under this Contract is in excess of \$100,000 then Contractor shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 18579h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR part 15).

The Contractor must obtain and present all relevant state and local insurance, training and licensing pursuant to services required within this Contract.

The Contractor shall comply with the following laws in Sections 23-32, inclusive, and 41-43, inclusive.

23. CIVIL RIGHTS ACT OF 1964, TITLE VI (NON-DISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS)

The Contractor shall comply with the Civil Rights Act of 1964 Title VI which provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

24. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Contractor shall comply with Section 109 of the Housing and Community Development Act of 1974 which states that no person in the United States shall, on

the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

25. AGE DISCRIMINATION ACT OF 1975 AND SECTION 504 OF THE REHABILITATION ACT OF 1973

The Contractor shall comply with the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, which require that no person in the United States shall be excluded from participating in, denied the benefits of, or subject to discrimination under this Contract on the basis of age or with respect to an otherwise qualified disabled individual.

26. EXECUTIVE ORDER 11246 AND 11375, EQUAL OPPORTUNITY IN EMPLOYMENT (NON-DISCRIMINATION IN EMPLOYMENT BY GOVERNMENT CONTRACTORS AND SUBCONTRACTORS)

The Contractor shall comply with Executive Order 11246 and 11375, Equal Opportunity in Employment, which requires that during the performance of this Contract, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause.

The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The Contractor will send to each labor union or representative of workers with which he has a collective bargaining Contract or other contract or understanding, a notice to be provided by the agency of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by the Executive Order and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Commission and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of Contractor's noncompliance with the non-discrimination clauses of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in the Executive Orders and such other sanctions may be imposed and remedies invoked as provided in the Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

The Contractor will include the provisions of these paragraphs in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of the Executive Order No. 11246 of September 24, 1965, that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such actions with respect to any subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance, provided however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

27. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968, AS AMENDED

- A. The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this Contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining Contract or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3

clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

28. FEDERAL LOBBYIST REQUIREMENTS

The Contractor is prohibited by the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and HUD's 24 CFR Part 87, from using federally appropriated funds for the purpose of influencing or attempting

to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, loan or cooperative Contract, and any extension, continuation, renewal, amendment or modification of said documents.

The Contractor must certify in writing on the Federal Lobbyist Requirements Certification form that they are familiar with the Federal Lobbyist Requirements and that all persons and/or subcontractors acting on behalf of the Contractor will comply with the Lobbyist Requirements.

Failure on the part of the Contractor or persons/subcontractors acting on behalf of the Contractor to fully comply with the Federal Lobbyist Requirements may be subject to civil penalties.

29. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

The Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

30. USE OF RECYCLED-CONTENT PAPER PRODUCTS

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on the Project.

31. CONTRACTOR RESPONSIBILITY AND DEBARMENT

A. A responsible contractor is a contractor, consultant, vendor, or operating agency who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the policy of the Commission, Housing Authority, and County to conduct business only with responsible contractors.

B. The Contractor is hereby notified that if the Commission acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the Commission may, in addition to other remedies provided in the contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on Commission contracts for a specified period of time, which generally will not to exceed five years but may exceed five years or be permanent if warranted by circumstances, and terminate any or all existing contracts the Contractor may have with the Commission.

- C. The Commission may debar a contractor, consultant, vendor or operating agency if the Board of Commissioners finds, in its discretion, that the contractor, consultant, vendor, or operating agency has done any of the following: (1) violated any term of a contract with the Commission, Housing Authority, or County, or a nonprofit corporation created by the Commission, Housing Authority, or County (2) committed any act or omission which negatively reflects on the its quality, fitness or capacity to perform a contract with the Commission, Housing Authority, or County or any other public entity, or a nonprofit corporation created by the Commission, Housing Authority, or County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the Commission, Housing Authority, County, or any other public entity.
- D. If there is evidence that the Contractor may be subject to debarment, the Commission will notify the Contractor in writing of the evidence, which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
- E. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Commission shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Commissioners.
- F. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contract Hearing Board shall be presented to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.
- G. If a Contractor has been debarred for a period longer than five years, that Contractor may, after the debarment has been in effect for at least five years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The Commission may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material

evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the Commission.

- H. The Contractor Hearing Board will consider a request for review of the debarment determination only where (1) the Contractor has been debarred for a period longer than five years; (2) the debarment has been in effect for at least five years; and (3) the request is in writing, states one or more of the ground for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment Hearing.

The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.

- I. These terms shall also apply to subcontractors and subconsultants of County, Commission, or Housing Authority contractors, consultants, vendors and operating agencies.

32. COMPLIANCE WITH JURY SERVICE PROGRAM

- A. Unless the Contractor has demonstrated to the Commission satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program or that Contractor qualifies for an exception to the Jury Service Program, Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.
- B. For purposes of this Section, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is

a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract Contract and a copy of the Jury Service Program shall be attached to the Contract.

- C. If the Contractor is not required to comply with the Jury Service Program when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.
- D. The Contractor's violation of this Section of the contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

33. ACCESS AND RETENTION OF RECORDS

The Contractor shall provide access to the Commission, the Federal Grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcriptions.

The Contractor is required to retain the aforementioned records for a period of five years after the Commission pays final payment and other pending matters are closed under this Contract.

34. CONFLICT OF INTEREST

The Contractor represents, warrants and agrees that to the best of its knowledge, it does not presently have, nor will it acquire during the term of this Contract, any interest direct or indirect, by contract, employment or otherwise, or as a partner,

joint venture or shareholder (other than as a shareholder holding a one (1%) percent or less interest in publicly traded companies) or affiliate with any business or business entity that has entered into any contract, subcontract or arrangement with the Commission. Upon execution of this Contract and during its term, as appropriate, the Contractor shall, disclose in writing to the Commission any other contract or employment during the term of this Contract by any other persons, business or corporation in which employment will or may likely develop a conflict of interest between the Commission's interest and the interests of the third parties.

35. SEVERABILITY

In the event that any provision herein is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect, impair or invalidate any other provision contained herein. If any such provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

36. INTERPRETATION

No provision of this Contract is to be interpreted for or against either party because that party or that party's legal representative drafted such provision, but this Contract is to be construed as if drafted by both parties hereto.

37. WAIVER

No breach of any provision hereof can be waived unless in writing. Waiver of any one breach of any provision shall not be deemed to be a waiver of any breach of the same or any other provision hereof.

38. PATENT RIGHTS

The Commission will hold all the patent rights with respect to any discovery or invention, which arises or is developed in the course of, or under this Contract.

39. COPYRIGHT

No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor. All such documents become the property of the Commission and the Commission holds all the rights to said data.

40. NOTICES

The Commission shall provide the Contractor with notice of any injury or damage arising from or connected with services rendered pursuant to this Contract to the

extent that Commission has actual knowledge of such injury or damage. Commission shall provide such notice within ten (10) days of receiving actual knowledge of such injury or damage.

Notices provided for in this Contract shall be in writing and shall be addressed to the person intended to receive the same, at the following address:

The Commission: Emilio Salas, Director
Administrative Services Division
Community Development Commission of the
County of Los Angeles
2 Coral Circle
Monterey Park, CA 91755

The Contractor: (*Contractor contact person*)

Notices addressed as above provided shall be deemed delivered three (3) business days after mailed by U.S. Mail or when delivered in person with written acknowledgement of the receipt thereof. The Contractor and the Commission may designate a different address or addresses for notices to be sent by giving written notice of such change of address to all other parties entitled to receive notice.

41. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in *Attachment D – Required Contract Notices* of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

42. CONTRACTOR'S ACKNOWLEDGMENT OF COMMISSION'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

The Contractor acknowledges that the Commission places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the Commission's policy to encourage all Commission Contractors to voluntarily post the Commission's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The Department of Children and Family Services of the County of Los Angeles will supply the Contractor with the poster to be used.

43. CONTRACTOR'S CHARITABLE CONTRIBUTIONS COMPLIANCE

The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. By requiring Contractors to complete the Charitable Contributions Certification as included in *Attachment C – Required Contract Forms*, the Commission seeks to ensure that all Commission contractors that receive or raise charitable contributions comply with California law in order to protect the Commission and its taxpayers. A Contractor that receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings, or both.

44. COMPLIANCE WITH THE LIVING WAGE PROGRAM (LWP)

44.1 Living Wage Program

44.1.1 This Contract is subject to the provisions of the Commission's policy entitled Living Wage Program, and incorporated by reference into and made a part of this Contract.

44.2 Payment of Living Wage Rates

44.2.1 Unless the Contractor has demonstrated to the Commission's satisfaction either that the Contractor is not an "Employer" as defined under the Program or that the Contractor qualifies for an exception to the Living Wage Program, the Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the Commission under the Contract:

44.2.2 Not less than \$11.84 per hour if, in addition to the per-hour wage, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or

44.2.3 Not less than \$9.64 per hour if, in addition to the per-hour wage, the Contractor contributes at least \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. The Contractor will be deemed to have contributed \$2.20 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during the Contract, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits, the Contractor shall be required to pay its Employees the higher hourly living wage rate.

44.2.4 For purposes of this Sub-paragraph, "Contractor" includes any subcontractor engaged by the Contractor to perform services for the Commission under the Contract. If the Contractor uses any subcontractor to perform services for the Commission under the Contract, the subcontractor shall be subject to the provisions of this Sub-paragraph. The provisions of this Sub-paragraph shall be inserted into any such subcontract Contract and a copy of the Living Wage Program shall be attached to the Contract. "Employee" means any individual who is an employee of the Contractor under the laws of California, and who is providing full-time services to the Contractor, some or all of which are provided to the Commission under the Contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the Commission; however, fewer than 35 hours worked per week will not, in any event, be considered full-time.

44.2.5 If the Contractor is required to pay a living wage when the Contract commences, the Contractor shall continue to pay a living wage for the entire term of the Contract, including any option period.

44.2.6 If the Contractor is not required to pay a living wage when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. The Contractor shall immediately notify the Commission if the Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if the Contractor no longer qualifies for an exception to the Living Wage Program. In either event, the Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The Commission may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the Commission's satisfaction that the Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that the Contractor continues to qualify for an exception to the Living Wage Program. Unless the Contractor satisfies this requirement within the time frame permitted by the Commission, the Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.

44.3 Contractor's Submittal of Certified Monitoring Reports

44.3.1 The Contractor shall submit to the Commission certified monitoring reports at a frequency instructed by the Commission. The certified monitoring reports shall list all of the Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by the Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of the Contractor's current health care benefits plan, and the Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by the Commission, or other form approved by the Commission which contains the above information. The Commission reserves the right to request any additional information it may deem necessary. If the Commission requests additional information, the Contractor shall promptly provide such information. The Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

44.4 Contractor's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims

44.4.1 During the term of the Contract, if the Contractor becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the Commission of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Contractor's contract with the Commission, but instead applies to any labor law/payroll violation or claim arising out of any of the Contractor's operations in California.

44.5 Commission Auditing of Contractor Records

44.5.1 Upon a minimum of twenty-four (24) hours' written notice, the Commission may audit, at the Contractor's place of business, any of the Contractor's records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. The Contractor is required to maintain all such records in California until the expiration of four years from

the date of final payment under the Contract. Authorized agents of the Commission shall have access to all such records during normal business hours for the entire period that records are to be maintained.

44.6 Notifications to Employees

44.6.1 The Contractor shall place Commission-provided living wage posters at each of the Contractor's places of business and locations where Contractor's Employees are working. The Contractor shall also distribute Commission-provided notices to each of its Employees at least once per year. The Contractor shall translate into Spanish and any other language spoken by a significant number of Employees the posters and handouts.

44.7 Enforcement and Remedies

44.7.1 If the Contractor fails to comply with the requirements of this Sub-paragraph, the Commission shall have the rights and remedies described in this Sub-paragraph in addition to any rights and remedies provided by law or equity.

44.8 Remedies For Submission of Late or Incomplete Certified Monitoring Reports

44.8.1 If the Contractor submits a certified monitoring report to the Commission after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the Commission may, in its sole discretion, exercise any or all of the following rights/remedies:

44.9 Withholding of Payment

44.9.1 If the Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the Commission may withhold from payment to the Contractor up to the full amount of any invoice that would otherwise be due, until Contractor has satisfied the concerns of the Commission, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

44.9.2 Liquidated Damages

44.9.2.1 It is mutually understood and agreed that the Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the Commission. It is also understood and agreed that the nature and amount of the damages will be

extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the Commission may, in its sole discretion, assess against the Contractor liquidated damages in the amount of \$100 per monitoring report for each day until the Commission has been provided with a properly prepared, complete and certified monitoring report. The Commission may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

44.9.3 Termination

44.9.3.1 The Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of the Contract. In the event of such material breach, the Commission may, in its sole discretion, terminate the Contract.

44.9.4 Remedies for Payment of Less Than the Required Living

Wage If the Contractor fails to pay any Employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of the Contract. In the event of any such breach, the Commission may, in its sole discretion, exercise any or all of the following rights/remedies:

44.9.5 Withholding Payment

44.9.5.1 If the Contractor fails to pay one or more of its Employees at least the applicable hourly living wage rate, the Commission may withhold from any payment otherwise due the Contractor the aggregate difference between the living wage amounts the Contractor was required to pay its Employees for a given pay period and the amount actually paid to the employees for that pay period. The Commission may withhold said amount until the Contractor has satisfied the Commission that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

44.9.6 Liquidated Damages

44.9.6.1 It is mutually understood and agreed that the Contractor's failure to pay any of its Employees at least the applicable hourly living wage rate will result in damages being sustained by the Commission. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, it is agreed that the Commission may, in its sole discretion, assess against the Contractor liquidated damages of \$50 per Employee per day for each and every instance of an underpayment to an Employee. The Commission may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

44.9.7 Termination

44.9.7.1 The Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, the Commission may, in its sole discretion, terminate the Contract.

44.9.8 Debarment

44.9.8.1 In the event the Contractor breaches a requirement of this Sub-paragraph, the Commission may, in its sole discretion, bar the Contractor from the award of future Commission contracts for a period of time consistent with the seriousness of the breach, not to exceed three years.

44.10 Use of Full-Time Employees

44.10.1 The Contractor shall assign and use full-time Employees of the Contractor to provide services under the Contract unless the Contractor can demonstrate to the satisfaction of the Commission that it is necessary to use non-full-time Employees based on staffing efficiency or Commission requirements for the work to be performed under the Contract. It is understood and agreed that the Contractor shall not, under any circumstance, use non-full-time Employees for services provided under the Contract unless and until the Commission has provided written

authorization for the use of same. The Contractor submitted with its bid a full-time Employee staffing plan. If the Contractor changes its full-time Employee staffing plan, the Contractor shall immediately provide a copy of the new staffing plan to the Commission.

44.11 Contractor Retaliation Prohibited

44.11.1 The Contractor and/or its Employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person or entity who has reported a violation of the Living Wage Program to the Commission or to any other public or private agency, entity or person. A violation of the provisions of this Sub-paragraph may constitute a material breach of the Contract. In the event of such material breach, the Commission may, in its sole discretion, terminate the Contract.

44.12 Contractor Standards

44.12.1 During the term of this Contract, the Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the Commission, the Contractor shall demonstrate to the satisfaction of the Commission that the Contractor is complying with this requirement.

44.13 Neutrality in Labor Relations

44.13.1 The Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of the Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining Contract, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

45. ENTIRE CONTRACT

This Contract with Attachments A through D constitutes the entire understanding and Contract of the parties. This Contract includes the following attachments:

- A. Statement of Work
- B. Fee Schedule
- C. Required Contract Forms
- D. Required Contract Notices

SIGNATURES

IN WITNESS WHEREOF, the Commission and the Contractor, through their duly authorized officers, have executed this Contract as of the date first above written.

COMMUNITY DEVELOPMENT COMMISSION
OF THE COUNTY OF LOS ANGELES

(Name of Contractor)

By _____
Sean Rogan
Executive Director

By _____
(Name of Authorized Representative)
(Title of Representative)

APPROVED AS TO FORM:
Raymond G. Fortner, Jr.
County Counsel

APPROVED AS TO PROGRAM:
(Division Name) DIVISION

By _____
(Grace Chang or Behnaz Tashakorian)
Deputy

By _____
Emilio Salas
Director